



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,450	01/24/2001	Alexander Slood	00995-P0176A	2398

24126 7590 09/11/2002

ST. ONGE STEWARD JOHNSTON & REENS, LLC  
986 BEDFORD STREET  
STAMFORD, CT 06905-5619

EXAMINER
----------

HAWKINS, CHERYL N

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 09/11/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/768,450

Applicant(s)

SLOOT, ALEXANDER

Examiner

Cheryl N Hawkins

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-12, drawn to a method of making an article, classified in class 156, subclass 251.
  - II. Claims 13-16, drawn to an article with a fabric layer, classified in class 428, subclass 192.
  - III. Claim 17, drawn to an apparatus for making an article, classified in class 156, subclass 515.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the article could be made by cutting by hand then sealing the layers by ultrasonic or thermal bonding; that is, the sealing and cutting are not simultaneous.
3. Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice

Art Unit: 1734

another and materially different process. (MPEP § 806.05(e)). In this case the apparatus could be used to join and cut two thermoplastic films not laminated to fabrics.

4. Inventions III and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case the product as claimed can be made by a different apparatus such as a device wherein the sealing area and cutting edge are not on the same die.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation between Examiner Williams Watkins and Attorney Todd Oberdick on June 11, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Objections***

Art Unit: 1734

7. Claim 2 is objected to because of the following informalities: "RF" in line 3 of the claim should be marked --RF sealing--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 2, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable.

9. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 8, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1734

11. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corzani et al. (US 6,248,202) in view of Perdelwitz, Jr. et al. (US 4,886,697). Corzani et al. discloses a method of manufacturing an article (absorbent article 36) including the steps of juxtaposing a fabric layer (layered structure 12) having a fabric peripheral edge with a layer of material (backsheet 30); cutting the layer of material so its outer edge is spaced outwardly from the fabric peripheral edge; and simultaneously with cutting, sealing the fabric layers to the layer of material to form a sealed periphery (Figure 4; column 10, lines 52-67; column 11, lines 1-5). Corzani et al. is silent as to the layer of material being thermoplastic. It is well known and conventional in the absorbent article manufacturing art, as disclosed by Perdelwitz, Jr. et al. (column 29, lines 39-43), to construct the backsheet of absorbent articles such as those of Corzani et al. from thermoplastic materials. It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the backsheet of Corzani et al. from a thermoplastic material; the construction of backsheets for absorbent articles from thermoplastic materials being well established in the art.

As to Claim 3, Corzani et al. discloses a method in which juxtaposing the fabric layer with the layer of thermoplastic material includes overlaying the fabric layer with another layer of material (topsheet 28), thereby sealing the fabric layer to two opposite layers of material (Figure 4). Corzani et al. is silent as to the additional layer of material being thermoplastic. It is well known and conventional in the absorbent article manufacturing art, as disclosed by Perdelwitz, Jr. et al. (column 29, lines 39-43), to construct the topsheet of absorbent articles such as those of Corzani et al. from thermoplastic materials. It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the topsheet of Corzani et al. from a

Art Unit: 1734

thermoplastic material; the construction of topsheets for absorbent articles from thermoplastic materials being well established in the art.

As to Claim 4, Corzani et al. discloses a method in which the layer of thermoplastic material initially covers the entire fabric layer (Figure 4).

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corzani et al. (US 6,248,202) and Perdelwitz, Jr. et al. (US 4,886,697) as applied to claim 1 above, and further in view of Gute (US 5,061,331). Corzani et al. is silent as to the type of sealing that is utilized to seal the fabric layer to the layer of material. Gute discloses that ultrasonic sealing and heat sealing are well known and conventional methods for sealing the edges of cut fabrics to prevent raveling thereof (abstract; column 1, lines 12-65; column 2, lines 1-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to use either ultrasonic sealing or heat sealing in the method of Corzani et al. to effect cutting and sealing of the absorbent article; ultrasonic sealing and heat sealing being well established in the fray prevention art.

13. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039) in view of Gute (US 5,061,331). Azulay discloses a process of manufacturing an article (Figure 5) including the steps of juxtaposing a fabric layer (fabric body 26) having a fabric peripheral edge with a thermoplastic layer (trim 40); pre-cutting the thermoplastic layer to size such that its outer edge is spaced outwardly from the fabric peripheral edge; and sealing the fabric layer to the layer of thermoplastic material to form a sealed

Art Unit: 1734

periphery (ultrasonic horn 68 and anvil 82). Azulay does not disclose simultaneously cutting the thermoplastic layer and sealing it to the fabric layer. It is well known and conventional in the garment manufacturing art, as disclosed by Gute (column 1, lines 13-68; column 2, lines 1-17), to simultaneously cut the edges of textile fabrics and seal them with thermoplastic components to prevent the fabric from raveling. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Azulay to perform the cutting of the thermoplastic layer and the sealing of the thermoplastic layer to the fabric layer simultaneously; simultaneous cutting and sealing steps being well established in the art for the prevent raveling of fabric edges, as well as being time efficient by eliminating the time needed for performing separate cutting and sealing processes.

As to Claim 2, Azulay discloses a method in which the sealing of the fabric layer to the layer of thermoplastic material includes a step of sonic sealing (Figure 5, ultrasonic horn 68).

As to Claim 3, Azulay discloses a method in which the juxtaposing the fabric layer to the layer of thermoplastic material includes overlaying the fabric layer with another layer of thermoplastic material, thereby sealing the fabric layer to two opposite layers of thermoplastic material (Figure 5, trim 40).

As to Claim 5, Azulay discloses a method in which the layer of thermoplastic material is a strip covering only a peripheral region of the fabric layer which includes the fabric peripheral edge (Figure 5, trim 40).

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039) and Gute (US 5,061,331) as applied to claim 1 above, and further in view of



Art Unit: 1734

O' Neill et al. (US 6,024,455). Azulay is silent as to the sealed periphery including a covering layer made of transparent thermoplastic material or of the layer of thermoplastic material being made from retro-reflective or glowing material. O' Neill et al. discloses a reflective article (Figure 10, article 10) which includes a covering layer made of transparent material (layer 96) and a layer of thermoplastic material (layer 16) being made from a retroreflective material (column 7, lines 63-67; column 8, lines 1-2). It would have been readily apparent to one of ordinary skill in the art at the time of the invention to modify the article manufacturing method of Azulay to produce retroreflective garments, such as that disclosed by O' Neill et al., which are easily detectable at night thereby providing increased safety for consumers.

15. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039) and Gute (US 5,061,331) as applied to claim 1 above, and further in view of Peterson (US 4,268,338) and England (US 5,028,294). Azulay does not disclose a method which includes a step of forming a decorative area spaced from the sealed periphery simultaneously with sealing the fabric layer to the layer of thermoplastic material. It is well known and conventional in the sealing and cutting apparatus art, as disclosed by Peterson (Figure 1), to use a die to provide for simultaneously cutting and sealing of thermoplastic layers. England discloses a welding die having multiple welding ledges for creating decorative articles containing appliqués (Figure 1). When desiring to provide an article of clothing with a decorative area (i.e. an appliqué), it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Azulay to include the use of a die have

Art Unit: 1734

multiple welding ledges such as that of England which would capable of simultaneously cutting and sealing the thermoplastic layer, as well as providing for a decorative appliqué area.

As to Claim 8, Azulay is silent as to the sealed periphery including a covering layer made of transparent thermoplastic material or of the layer of thermoplastic material being made from retro-reflective or glowing material. O' Neill et al. discloses a reflective article (Figure 10, article 10) which includes a covering layer made of transparent material (layer 96) and a layer of thermoplastic material (layer 16) being made from a retroreflective material (column 7, lines 63-67; column 8, lines 1-2). When creating a decorative article of clothing, it would have been readily apparent to one of ordinary skill in the art at the time of the invention, as noted above, to modify the article manufacturing method of Azulay to produce garments having retroreflective decorative designs with a structure, such as that disclosed by O' Neill et al., which is easily detectable at night thereby providing increased safety for consumers.

16. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039) in view of Gute (US 5,061,331) and Peterson (US 4,268,338). Azulay discloses a process of manufacturing an article of clothing including the steps of interposing a fabric layer (fabric body 26) with a thermoplastic layer (trim 40) pre-cut to size such that a peripheral edge of the fabric layer extends within the thermoplastic layer; sealing the overlapped areas of the fabric and thermoplastic layers to each other to form a trimmed article of clothing. Azulay does not disclose providing a die and applying the die to the thermoplastic layer to simultaneously cut the thermoplastic layer and seal the fabric and the thermoplastic layer. It is well known and conventional in the garment manufacturing art, as disclosed by Gute (column 1,

Art Unit: 1734

lines 13-68; column 2, lines 1-17), to simultaneously cut the edges of textile fabrics and seal them with thermoplastic components to prevent the fabric from raveling. It is also well known and conventional in the sealing and cutting apparatus art, as disclosed by Peterson (Figure 1), to use a die to provide for simultaneously cutting and sealing of thermoplastic layers. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Azulay to include a die to perform the cutting of the thermoplastic layer and the sealing of the thermoplastic layer to the fabric layer simultaneously; simultaneous cutting and sealing steps being well established in the art for the prevent raveling of fabric edges, as well as being time efficient by eliminating the time needed for performing separate cutting and sealing processes.

17. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039), Gute (US 5,061,331), and Peterson (US 4,268,338) as applied to claim 9 above, and further in view of Demerest (US 3,901,579). Azulay discloses manufacturing several different articles of clothing such as a shirt, brassiere, or underwear (Figures 1-3), but is silent as to providing the article with a pair of adjustable straps. It is well known and conventional in the garment manufacturing art, as disclosed by Demerest (abstract), to provide an article with adjustable straps to fit different sized persons. When utilizing the method of Azulay to manufacturing an article of clothing such as a brassiere, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the article with a pair of adjustable straps; adjustable straps being well established in the art for providing adjustment of the article to fit persons of varying sizes.

18. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azulay (US Pub. No. 2002/0079039), Gute (US 5,061,331), and Peterson (US 4,268,338) as applied to claim 9 above, and further in view of England (US 5,028,294) and O' Neill et al. (US 6,024,455). As to Claims 11 and 12, Azulay does not disclose a method which includes a step of forming a decorative area spaced inwardly from the trim simultaneously with sealing the fabric layer to the layer of thermoplastic material. It is well known and conventional in the sealing and cutting apparatus art, as disclosed by Peterson (Figure 1), to use a die to provide for simultaneously cutting and sealing of thermoplastic layers. England discloses a welding die having multiple welding ledges for creating decorative articles containing appliqués (Figure 1). When desiring to provide an article of clothing with a decorative area (i.e. an appliqué), it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Azulay to include the use of a die have multiple welding ledges such as that of England which would capable of simultaneously cutting and sealing the thermoplastic layer, as well as providing for a decorative appliqué area. Azulay is also silent as to including a covering layer made of transparent thermoplastic material or a backup layer of thermoplastic material being made from retro-reflective or glowing material. O' Neill et al. discloses a reflective article (Figure 10, article 10) which includes a covering layer made of transparent material (layer 96) and a layer of thermoplastic material (layer 16) being made from a retroreflective material (column 7, lines 63-67; column 8, lines 1-2). When creating a decorative article of clothing, it would have been readily apparent to one of ordinary skill in the art at the time of the invention, as noted above, to modify the article manufacturing method of Azulay to produce garments having retroreflective

Art Unit: 1734

decorative designs with a structure, such as that disclosed by O' Neill et al., which is easily detectable at night thereby providing increased safety for consumers.

***Conclusion***

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl N. Hawkins whose telephone number is (703) 306-0941. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

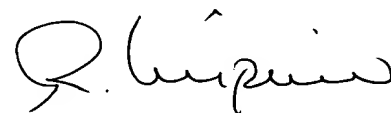
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where the application or proceeding is assigned is (703) 872-9310 for regular communications or (703) 872-9311 for After-Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

Cheryl N. Hawkins

*Cheryl N. Hawkins 9/9/02*

September 9, 2002



RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700